
Appeal Decision

Site visit made on 31 October 2017

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 January 2018

Appeal Ref: APP/F0114/D/17/3180753

Hay Tor, Old Midford Road, South Stoke, Bath BA2 7DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr Adrian Done against the decision of Bath & North East Somerset Council.
 - The application Ref 17/00539/FUL, dated 3 February 2017, was refused by notice dated 12 May 2017.
 - The development proposed is erection of garden building following demolition of existing building.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Dr Adrian Done against Bath & North East Somerset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description on the application form refers just to the erection of a garden building but the Council's decision notice and the appeal documents from both parties link this to the demolition of an existing building. I have therefore adopted the Council's description for the purposes of my decision.
4. Subsequent to the refusal of planning permission, the Council has adopted the Bath and North East Somerset Placemaking Plan. The policies in this document replace those from the Bath and North East Somerset Local Plan (2007) referred to in the decision notice.

Main Issues

5. The main issues are
 - (a) whether the proposal would constitute inappropriate development in the Green Belt,
 - (b) the effect of the proposal on the openness of the Green Belt and the purposes of including land within it,

(c) the effect of the proposal by reason of its siting, scale and design on the streetscene, the spatial characteristics of the area and on the open rural character and rural landscape of the area, and

(d) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

6. Hay Tor is a detached house located close to the site's western boundary. It has a large curtilage of approximately 0.48 ha (1.2 acres) which is mainly laid to lawn but there are a few outbuildings and several trees and hedges within the site and to its boundaries. There are other isolated dwellings adjacent to the site and also areas of open countryside. The site and surrounding area are within the Green Belt and the Cotswolds Area of Outstanding Natural Beauty (AONB).

Inappropriate development

7. The proposal is to erect a detached building to be used as a home office and for garden storage. The building would be clad in timber and have a clay tile roof with a ridge about 5m high. The roof would be punctuated by velux roof lights to its north facing slope and have solar panels fixed to its southern side.
8. Paragraph 89 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt unless it complies with one of a list of cited exceptions. One of these is "*the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building*". The Framework does not specifically refer to ancillary outbuildings but the appellant has assessed the proposal against this test calculating that the building would have a volume of 191.7 cubic metres and that when combined with existing and approved additions to the building, this would amount to an enlargement of 32.17% of the host property. It is claimed that this would be in accordance with guidance within the Council's Supplementary Planning Document (SPD) on existing dwellings in the Green Belt and therefore is not disproportionate.
9. The SPD at paragraph 7.5 states that "*While each application will be considered on its own merit, and not all extensions may be acceptable, in many circumstances a well designed extension resulting in a volume increase of about a third of the original dwelling would be more likely to be acceptable*". The SPD refers particularly to extensions whereas the proposal is for an outbuilding some 28m from the house. The building would have a functional relationship with the house inasmuch as it would be an ancillary structure but it would be a large structure physically remote the house. In my opinion, its location would be too far from the house for it to be reasonably regarded as an extension to the house. This exception to paragraph 89 does not apply.
10. Paragraph 89 of the Framework also allows for "*the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces*". The proposed building would be sited close to an existing outbuilding in poor condition that it is proposed to demolish. But as it would not

have the same siting, it would not be a replacement building unless the existing building is required to be demolished by a planning condition. The new building would be in the same use, in that it would be an ancillary garden building. But it would have a greater floor area, a greater mass and its ridged roof at about 5m high would be significantly higher than the flat roof of the building to be demolished. My findings on this point are that the proposal would be materially larger than the building it would replace and that this exception to paragraph 89 does not apply.

11. The proposal cannot be considered as an extension to the dwelling as it is too distant, and it cannot be deemed a replacement building as it is materially larger and taller. As such, the proposal would amount to inappropriate development. Paragraph 87 of The Framework affirms that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

12. Paragraph 79 of the Framework states that “the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open”. One of the five purposes of the Green Belt set out at paragraph 80 of the Framework is “to assist in safeguarding the countryside from encroachment”.
13. The proposal is for a new building in the Green Belt and even if allowance is made for the existing outbuilding to be demolished, there would be an overall increase in volume and the new building would be significantly higher. The appellant has pointed out that the screening to the site’s boundaries would limit views of the new building from outside the site, but notwithstanding this the material increase in size would result in some loss of openness to the Green Belt and some conflict with the purposes of the Green Belt. The proposal would thereby be contrary to policy CP8 of the Bath and North East Somerset Core Strategy (2014) (CS) that seeks to protect the openness of the Green Belt from inappropriate development in accordance with national planning policy. The harm arising from loss of openness would be in addition to that arising from the proposal amounting to inappropriate development.

Local character

14. The existing outbuilding to be demolished is located close to the site’s northern boundary with Old Midford Road. Most of it is screened by a boundary hedge on an embankment to the road which is at a lower level, but the top of the building can be seen from the street over the hedge. By contrast, the proposed building would be set away from this boundary and would not be readily visible from the highway. The proposal also includes supplementary planting measures to strengthen the boundary hedge to Old Midford Road. My findings in relation to the appearance of the street scene are that the proposal would not result in any harm and there would be a net benefit from the removal of the existing outbuilding. There would be no conflict with Policy D4 of the Bath and North East Somerset Placemaking Plan (2017) (PP) that seeks to ensure development makes appropriate connections to streets and the public realm.
15. Notwithstanding the proposed building’s additional mass and height compared to the building to be demolished, it would not be readily visible from other positions outside the site. Its location would not be close to the site’s other boundaries; it would be screened by the trees and hedges to these boundaries

and by vegetation and other structures (such as a poly tunnel) within the garden. The immediate surrounding area is characterised by open countryside and by other isolated dwellings such as Whitecroft that also has outbuildings within its curtilage. The development would not be out of keeping with this character. The building would have a satisfactory design appropriate to a domestic garden setting which would be an improvement upon the blockwork walls and corrugated panel roof of the building to be demolished.

16. As such the proposal would not conflict with Policy CP6 of the CS that promotes high quality designs and the conservation and enhancement of the distinctive character and quality of the district's landscape. Neither would there be conflict with policies D2 and NE2 of the PP (2017) which states that development will be permitted where it conserves or enhances local landscape character and local distinctiveness and responds positively to the site context.

Other considerations

17. The appellant cites several benefits arising from the proposal. It would enable the removal of an unsightly and dilapidated outbuilding at the site. However, the boundary screening constrains the impact of this building on the street scene and character of the area. As such, I attach only limited weight to this factor.
18. It would be possible to erect a much larger outbuilding than that currently proposed within the garden under the Class E permitted development provisions of the General Permitted Development Order 2015 (GPDO). To demonstrate this, the appellant successfully applied for a Certificate of Lawful Development (Ref: 17/02240/CLPU) for a permitted development (PD) building with a volume of 358.5m³ as opposed to that of 191.7m³ for the appeal proposal. Hay Tor currently benefits from permitted development allowances and so such a building could be constructed prior to and possibly in addition to construction of the appeal proposal in the event that it gains planning permission.
19. However, Class E limits the height of any outbuilding with a dual pitched roof to no more than 4m and would preclude the siting of the building forward of the front wall fronting Old Midford Road. As the site is within an Area of Outstanding Natural Beauty it is designated as Article 2(3) land for the purposes of the GPDO. The designation would preclude the erection of any outbuilding on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse. It would also limit the floor area of any outbuilding to no more than 10 square metres if positioned more than 20 metres from any wall of the dwellinghouse.
20. The appellant's preferred location for a home office and garden store would be forward of the side wall, more than 20m from the house with a floor area greatly in excess of 10 square meters and with a height of 5m. Although of a lesser mass than the PD alternative agreed with the Council, the appeal proposal would be in a more open location remote from the dwelling and would be more harmful to the openness of the Green Belt.
21. Nonetheless, there is a realistic prospect that such an alternative building would be erected elsewhere within the curtilage in the event of the appeal being dismissed, albeit that this would have to be behind the line of the rear

wall to the dwellinghouse and lower than the appeal proposal. As such I ascribe moderate weight to the PD fallback position.

22. The appellant has referred to an appeal decision¹ in South Gloucestershire in which the PD fallback position was critical to the decision. However that case related primarily to extensions to the dwelling rather than to an outbuilding and the circumstances at the current appeal site differ in several respects. Furthermore, the implementation of a PD alternative at Hay Tor would be constrained as outlined above.

Conclusion

23. The proposed development would be inappropriate development in the Green Belt. In addition, there would be some loss of openness in relation to the bulk of the development, although this would not otherwise result in harm to the appearance of the street scene or to the rural landscape character of the surrounding area. The Framework establishes that substantial weight should be given to any harm to the Green Belt. The proposal would also conflict with relevant development plan policies CP8 of the CS and GB3 of the PP that seek to safeguard the Green Belt from disproportionate additions over and above the size of the original building.
24. On the other hand, I only attach limited weight to the removal of the smaller but more unsightly existing outbuilding. Moderate weight is attached in favour of the proposal to the potential for permitted development rights to be exercised on an alternative outbuilding as whilst this could be larger, it would be required to be sited closer to the dwelling and in a part of the site where the overall impact on the openness of the Green Belt would be reduced. These considerations do not clearly outweigh the totality of the harm arising from the development. Consequently, very special circumstances do not exist.
25. For the reasons set out above and having regard to all matters raised, my conclusion is that the appeal should be dismissed.

Rory MacLeod

INSPECTOR

¹ APP/P0119/C/16/3155072